IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 443 OF 2007

1. Rajendra Baban Shete.
2. Baban Bajirao Shete.
3. Draupadabai Baban Shete. ... Applicants.

V/s.

State of Maharashtra. ... Respondent.

S.S.Kulkarni for the applicants.

Ms.S.D.Shinde, A.P.P. for the respondent- State.

CORAM: V.C.DAGA, J.

DATED: 2nd November 2007.

P.C.:

. Heard learned counsel for the rival parties.

. Perused revision application with relevant documents.

2. This revision application is directed against the judgment and order dated 24th August, 2007 passed in Criminal Appeal No.142/2000 by the learned Sessions Judge, Pune, whereby the learned Sessions Judge was pleased to dismiss appeal directed against the judgment and order dated 13th November, 2000 passed by learned 10th Assistant Sessions Judge, Pune in

Sessions Case No.69/1998 convicting the applicants-accused of the offences punishable under sections 498A 306 read with section 34 of Indian Penal Code (I.P.C.) and sentencing them to suffer three years rigorous imprisonment with fine of Rs.300/- each with default stipulation.

The Facts :

3. The facts, in brief, are that the marriage was solemnized between applicant No.1 and deceased Suvarna on 30th April, 1996. It was alleged that the deceased was harassed and ill-treated by the applicants and kept starving on the ground that she was not doing household work and also not working in field. It is further case of the prosecution that whenever the deceased used to come to complainant's house, she used to tell about the harassment meted out by the applicants to her. It is further case of the prosecution that the applicants were demanding Rs.50,000/- from the deceased for purchasing Goods Truck. That the applicants beat her on the Bhor ST Stand. That the maternal uncle of the complainant, who saw her, brought her to his residence, and on the next day the complainant brought her to his home. It is further case of the prosecution that applicant No.1 called the complainant on phone and demanded Rs.50,000/- and told him that if he fails to give the money then he should not send the deceased back to her

matrimonial home. It is further case of the prosecution that during Dassera festival, when the mother, sister and mother-in-law of sister of the deceased went to the deceased's home to meet her, they saw that the harassment and taunting was continued to the deceased. On 16th October, 1997, at about 1.30 p.m., the deceased left her four months daughter with her neighbours and locked the house from inside. She poured kerosene on her person and committed suicide by setting herself on fire. The complainant lodged complaint, which was registered as C.R.No.169/1997 for the offences punishable under sections 498A, 306 read with section 34 of Indian Penal Code (I.P.C.) against the applicants.

4. After completion of investigation, the police filed chargesheet. Thereafter the case was committed to the Sessions Court for trial. The applicants pleaded not guilty and claimed to be tried. The defence of the applicants was that of total denial. The prosecution examined 8 witnesses to prove the guilt of the applicants. The applicants examined one witness.

5. As stated hereinabove, after trial, the 10th Assistant Sessions judge, Pune, vide his order dated 13th November, 2000, was pleased to convict the applicants.

6. Being aggrieved by the aforesaid order, the applicants- accused preferred appeal before the learned Sessions Judge, Pune, who, vide its order dated 24th August, 2007, dismissed appeal and confirmed the order of conviction. This order is a subject matter of the present revision.

Submissions :

7. The learned counsel for the applicants submitted that prosecution has not proved that immediate prior to the incident the deceased was subjected to any cruelty or harassment as such the applicants- accused cannot be held guilty of offence punishable under section 306 of I.P.C. He further submits that the prosecution has failed to examine any independent witness so as o prove that the applicants-accused had subjected the deceased with cruelty/harassment. He further submits that the Court below did not notice that dead body of the deceased

was lying near hearth. He, therefore, prays that the judgments and orders passed by the lower Courts be set aside and the applicants be acquitted.

8. The learned counsel for the applicant has relied upon the judgments of the Supreme Court in the case of **Pandurang Sitaram Bhagwat v. State of Maharashtra**, (2005) 9 SCC 44 and **Manjappa v. State of Karnataka**, (2007) 7 SCC 231 in support of his submission. He took me through the evidence on record and tried to urge that the prosecution failed to prove their case. He went on to urge that the findings recorded by the Courts below are perfunctory and perverse as such liable to be reversed. Lastly, he urged that the accused is entitled to the benefit of Probationers of Offenders Act and went on to pray for reduction in the punishment.

Consideration :

9. I have gone through the evidence, judgment, and findings recorded therein. The applicants have suffered concurrent findings of fact at the hands of lower Courts. After having considered the evidence on record, learned Assistant Sessions Judge and learned Additional Sessions Judge have concurrently held that

the applicants- accused subjected deceased Suvarna to ill-treatment and cruelty during the period of three months from 30th April, 1996 to 16th October, 1997 for meeting their unlawful demand of money for the purpose of purchasing truck which resulted in driving her to commit suicide. That the applicants- accused abetted deceased Suvarna to commit suicide in furtherance of their common intention for failure to meet their unlawful demand of money.

10. Having seen the material available on record, in my considered view, the concurrent view taken by both the Courts below is a reasonable and possible view. The jurisdiction of this Court while entertaining criminal revision is limited which is recognised by this Court and also by the Apex Court in number of decisions. Readily available decision is in the case of **C.P.Fernandes v. Union territory of Goa, Daman & Diu**, AIR 1977 SC 135, wherein the Apex Court has ruled that the Court should not interfere with the trial Court's views unless found to be unreasonable or perverse. If two views are possible on the basis of evidence on record, the higher Court should not disturb the findings of the trial Court. The same principle is reiterated in the case of **Varghese Thomas**

v. State of Kerala, 1977 SC 701.

11. This Court not being a Court of appeal cannot reappreciate and substitute its view in exercise of revisional jurisdiction. Revisional jurisdiction is not only limited in scope but discretionary. The Court interferes in the revisional jurisdiction only in exceptional cases of flagrant miscarriage of justice as held by Apex Court in the case of **State of Rajasthan v. Gurucharandas Chaddha, AIR 1979 SC 1895.** No such case is made out by the applicant.

12. In the light of the law laid down by the Apex Court, if one turns to the evidence, it is not possible to come to the conclusion that the impugned order is perverse or that the Court below has committed any illegality in appreciating the evidence so as to misdirect itself to acquit accused persons. The judgments cited by learned counsel for the applicants are based on the facts of those cases. In the present case both Courts have concurrently held the applicants- accused guilty of the offences charged on the basis of the material available on record. In my opinion, the evidence has been rightly appreciated

by the Court below. The view taken is a reasonable and possible view, which can very well be sustained on the basis of evidence available on record. In the above view of the matter, no case is made out either to interfere with the impugned order or to grant benefit of the Probationers of Offenders Act or to reduce punishment.

13. In the result, revision application is dismissed in limine with no order as to costs.

JUDGE